

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Misuse of Internet Protocol (IP))	
Captioned Telephone Service)	CG Docket No. 13-24
)	
Telecommunications Relay)	
Services and Speech-to-Speech Services for)	
Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
To: The Commission		

**REPLY COMMENTS IN RESPONSE TO
NOTICE OF PROPOSED RULE MAKING
ON IP CTS**

PURPLE COMMUNICATIONS, INC.

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March 12, 2013

Purple Communications, Inc. (“Purple”) takes this opportunity to provide reply comments made in response to the Notice of Proposed Rule Making on Internet Protocol Captioned Telephone Service (“IP CTS”).¹

At least ten significant commenters filed in support of many of the FCC’s proposed rules.² There is, for example, a general consensus that referral fee should be banned, that notification should be required,³ that user information be kept confidential, that a third-party certification process be in place for users receiving free or heavily-subsidized IP CTS equipment, and that proposed rules should distinguish between IP-CTS software applications and IP-CTS devices.

Purple emphasizes that there should be an exception to the to the default-off standard. Commenters such as Consumer Groups, RERC-TA, HLAA and Sprint have taken varying positions recognizing that exemptions to the default-off position should be recognized.. The rationale behind this is obvious, as software-only captioning on personal devices is typically used only by the registered users, and certain special-purpose devices are often placed in environments where the registered user is highly likely to be the only person to access the devices.⁴

¹ *Order and Notice of Proposed Rulemaking, CG Docket Nos. 10-51 and 03-123, FCC 13-13, Adopted January 24, 2013, released January 25, 2013 (“NPRM”).*

² This includes CTIA, Hamilton, HLAA, joint consumer organizations (“Consumer Groups”), Miracom, RERC-TA, Sorenson, Sprint, USTA, and Purple. Certain of Sorenson’s positions would in many ways undermine the integrity of the fund including, for example, Sorenson’s position on the distribution of free equipment without appropriate third party certification to ensure eligibility and the desire to grandfather in existing users without verifying eligibility in accordance with the proposed registration requirements.

³ Purple agrees with commenters suggesting that providers should be able to choose their method of notification, whether it is via labels on devices, on-screen notification or other approaches.

⁴ This ranges from personal offices in the work environment to residential environments where all the residents (if more than one) are eligible for IP-CTS. Exceptions, as Consumer Groups have noted, should also be made for IP-CTS answering machines or other recorders of incoming calls.

Perhaps the most important reason to provide this exemption is the fact a default-off approach will, in many situations, fail to satisfy the functional equivalence requirement of the Americans with Disabilities Act. Commenters have made a strong showing that there are many situations where a default-off position would cause the IP-CTS user to miss so much of what is said as to render the call itself useless.⁵

In order to balance the need for a default-off rule with the recognition that certain individuals and situations require a default-on IP-CTS, an elevated degree of certification is necessary. As Purple has previously noted, it is necessary to balance the need for functional equivalence access to telephone services by IP-CTS users with the potential (and unintended) misuse of the service by ineligible users who access a default-on device.

Purple strongly encourages the Commission to allow users whose devices are not generally accessible to ineligible users, and who certify to this fact as well as an obligation to prevent ineligible users from using captions, to be allowed to configure their use-isolated or remote devices to run captions in a default-on configuration. Such elevated certification would require a user to certify to the effect that: (a) they understand that the captioning service they access at no additional cost is provided by a live CA dedicated to each of their captioned calls, and reimbursed by the TRS Fund, (b) their device is not accessed by or easily accessible to ineligible users, and (c) they will not permit the use of captions on their device by any ineligible persons.⁶

⁵ Purple respectfully incorporates by reference its original comments that internal tests shows that one-third to one-half of certain calls will not be captioned--a clear violation of the Commission's required obligation to ensure functional equivalency.

⁶ This elevated certification is absolutely necessary to provide users opportunity to avoid the significant erosion in the user experience when the default-off is implemented. The erosion goes beyond mere "inconvenience" to the point of failure to satisfy the functional equivalence requirement for certain kind of calls. The Commission must ensure that there are rules that will allow users to receive the full functional-equivalence experience, perhaps through the elevated certification proposed by Purple.

The increased requirements for user certification (either self-certification or third party certification) should also be made retroactive for all users to ensure that any ineligible user does not continue to exploit this valuable service.

Purple supports the Commission's efforts to better understand and control the rapid growth of IP CTS, and to ensure its continued availability as a critical service to promote accessibility of communication services. The FCC should enact regulations that prohibit the opportunistic practices of certain providers leading to misuse of the service. At the same time, the FCC must protect the utility of the service for those who truly require it to effectively communicate by telephone. Furthermore, the Commission must regulate the industry through rules that apply to all users (regardless of when they registered for service or received devices), but with narrowly-crafted carve outs that enable effective access by those whose devices present no material risk of misuse.

Respectfully Submitted

A handwritten signature in dark ink, appearing to read 'JGL', is positioned above the typed name and title.

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